

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6155

ROBERT EUGENE EASON,

Petitioner - Appellant,

v.

JOSEPH B. HALL,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Louise W. Flanagan,
District Judge. (5:13-hc-02006-FL)

Submitted: May 16, 2013

Decided: June 12, 2013

Before KEENAN, FLOYD, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Eugene Eason, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Eason seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2006) petition without prejudice as an unauthorized second or successive § 2254 petition. Eason placed his petition form and a memorandum elaborating on the petition in two separate envelopes, causing the district court to docket two separate cases. The district court dismissed the action that was filed second in time as second or successive, even though the first petition was still pending and awaiting adjudication.

We grant a certificate of appealability on the issue of whether the district court erred in dismissing the instant petition as an unauthorized second or successive petition within the meaning of 28 U.S.C. § 2244(b) (2006), but we affirm the district court's dismissal of the petition without prejudice on the ground that it was improvidently docketed as a new petition. We deny a certificate of appealability on any other issues raised by Eason.

Accordingly, we grant in part and deny in part Eason's motion for a certificate of appealability and grant his motion to proceed in forma pauperis. We dispense with oral argument because the facts and legal contentions are adequately presented

in the material before this court and argument will not aid the decisional process.

AFFIRMED